

EXHIBIT

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THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ABDIQAFAR WAGAFE *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

DONALD TRUMP, President of the
United States *et al.*,

Defendants.

No. 17-cv-00094 RAJ

PLAINTIFFS' FIRST SUPPLEMENTAL
OBJECTIONS AND RESPONSES TO
DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS

Pursuant to Federal Rules of Civil Procedure 26 and 33, Abdiqafar Wagafe, Mehdi Ostadhassan, Hanin Omar Bengezi, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), and Sajeel Manzoor, on behalf of themselves and others similarly situated (collectively, "Plaintiffs"), hereby submit the following First Supplemental Objections and Responses to the First Set of Interrogatories directed to Plaintiffs by Defendants.

GENERAL OBJECTIONS AND RESERVATIONS

Plaintiffs' responses to the Interrogatories are subject to and without waiver of the following objections and reservations:

1. Plaintiffs object to each Interrogatory to the extent that the Interrogatory calls for information protected from discovery or disclosure by any privilege or doctrine, including, without limitation, the attorney-client privilege or work product doctrine and any privilege or

1 doctrine that protects information from discovery or disclosure because it otherwise reflects the
2 impressions, conclusions, opinions, legal research, litigation plans or theories of their attorneys.
3 By providing certain information requested herein, Plaintiffs do not waive any privilege or
4 protection that is or may be applicable to such information.

5 2. Plaintiffs object to each Interrogatory to the extent that the Interrogatory seeks
6 information and/or documents concerning their defenses or positions regarding legal issues in
7 this action and to the extent they constitute premature contention interrogatories.

8 3. Plaintiffs object to Interrogatories requesting “all” or “every” source of
9 information relating to the subject matter of each Interrogatory, as such is overly broad and
10 unduly burdensome. *See United States ex rel. Barko v. Halliburton Co.*, 241 F. Supp. 3d 37, 77
11 (D.D.C.), *aff’d*, 709 F. App’x 23 (D.C. Cir. 2017) (interrogatory asking a party to “identify every
12 person that may possess knowledge or information regarding the factual allegations or legal
13 claims in [the] complaint—which are incredibly numerous, to say the least—and then describe,
14 in detail, the facts about which they have knowledge” as overbroad and unduly burdensome and
15 “improper”); *Grynberg v. Total S.A.*, No. 03-CV-01280-WYD-BNB, 2006 WL 1186836, at *7
16 (D. Colo. May 3, 2006) (interrogatory requiring party “to state all material facts supporting the
17 denial or affirmative defense, identify all witnesses with knowledge of those facts, and identify
18 all material documents supporting the denial or affirmative defense is unduly burdensome as a
19 matter of law and an abuse of the discovery system”); *Hilt v. SFC Inc.*, 170 F.R.D. 182, 187 (D.
20 Kan. 1997) (“If the drafters of the rules had intended to authorize interrogatories with an impact
21 as wide as the entire case, they could more realistically and easily have adopted a simple rule to
22 require every pleading to be accompanied by a statement of all the facts supporting every
23 allegation and the identifications of every knowledgeable person and supporting document. The
24 rules, of course, contain no such requirement. They contemplate instead that discovery in each
25 case be sensibly organized and managed—and often limited—to provide each party with
26 reasonable opportunity to learn information essential to a fair resolution of the case.”). Plaintiffs

1 further object to Interrogatories requesting “all” or “every” source of information relating to the
 2 subject matter of each Interrogatory as overly broad because the literal interpretation would
 3 require the disclosure of information protected by the privileges and exemptions listed in these
 4 General Objections.

5 4. Plaintiffs’ investigation and development of facts relating to this action are
 6 ongoing. These responses and objections are made without prejudice to, and are not a waiver of,
 7 Plaintiffs’ right to rely on other facts or documents at trial.

8 5. Plaintiffs reserve the right to supplement, clarify, revise, or correct any or all of
 9 the responses and objections herein, and to assert additional objections or privileges, in one or
 10 more subsequent supplemental response(s).

11 6. The assertion of any general objections does not preclude the assertion of specific
 12 objections. Nor does the assertion of additional specific objection waive any applicable general
 13 objection.

14 15 16 INTERROGATORIES

17 INTERROGATORY NO. 1:

18 Identify all persons with knowledge of the facts in support of your claims asserted in the
 19 Second Amended Complaint, the specific facts known to that person, the manner in which the
 20 person acquired the knowledge (e.g., by observing, witnessing, hearing, reading), and every
 21 source from whom, that person obtained knowledge of the facts.

22 RESPONSE TO INTERROGATORY NO. 1:

23 Plaintiffs object to this Interrogatory as premature, because discovery and investigation
 24 into this matter are ongoing, and because it is overbroad and unduly burdensome. Defendants
 25 have not fully complied with their own discovery obligations and have not produced relevant
 26 documents or information in response to Plaintiffs’ discovery requests, and as a result, Plaintiffs

1 cannot fully respond to this Interrogatory at this time. Subject to and without waiving any
 2 objections, Plaintiffs refer Defendants to the parties' respective Rule 26 disclosures in which
 3 witnesses were identified. In addition, Plaintiffs refer Defendants to the persons identified in
 4 documents produced by Defendants as having been participants in the creation or application of
 5 CARRP or other similar vetting programs. Plaintiffs also refer Defendants to information
 6 produced by Defendants about those persons who have had their applications subjected to
 7 CARRP or other similar vetting programs.

8 **FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

9 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
 10 Interrogatory No. 1. Without waiving the foregoing objections, persons with knowledge include:
 11 Arazo Abdulaziz, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), Ronald Atkinson, Jaime
 12 Benavides, Hanin Omar Bengezi, Officer Daoud, Shanon Doherty, Matthew Emrich, Christopher
 13 Heffron, Katie Hess-Yoder, Amy Lang, Sean Lee, Sajeel Manzoor, Brian Murphy, Mehdi
 14 Ostadhassan, Daniel Renaud, Lori Scialabba, Officer Vasquez-Cortina, and Abdiqafar Wagafe.
 15 Plaintiffs also refer Defendants to Plaintiffs' Rule 26 Initial and Supplemental Disclosures in
 16 which individuals likely to have discoverable information that Plaintiffs may use to support their
 17 claims or defenses were identified. Plaintiffs also refer Defendants to individuals identified in
 18 Defendants' Initial and First and Second Supplemental Initial Disclosures, as well as persons
 19 identified in documents produced by Defendants as having been participants in the creation or
 20 application of CARRP or other similar vetting programs, such as documents part of Defendants'
 21 Certified Administrative Record and documents produced by Defendants in response to
 22 Plaintiffs' Requests for Production. Plaintiffs additionally refer Defendants to documents and
 23 information produced by Defendants about persons who have had their applications subjected to
 24 CARRP or other similar vetting programs.

INTERROGATORY NO. 2:

Identify all documents that Plaintiffs claim supports their averments in the Second Amended Complaint, including for each document an identification of each paragraph in the Second Amended Complaint that Plaintiffs claim the document supports.

RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs object to this Interrogatory because the information sought is premature, because discovery and investigation into this matter are ongoing, and because it is overbroad and unduly burdensome. Defendants have not fully complied with their own discovery obligations and have not produced relevant documents or information in response to Plaintiffs' discovery requests, and as a result, Plaintiffs cannot fully respond to this Interrogatory at this time. Subject to and without waiving any objections, Plaintiffs refer Defendants to the documents Defendants have produced as well as documents previously produced in *ACLU of SoCal v. USCIS*, CV 13-861 (D.D.C.), and in response to other Freedom of Information Act requests.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs incorporate the General Objections and objections in Plaintiffs response to Interrogatory No. 2. Without waiving the foregoing objections, documents that support Plaintiffs' claim include: Documents and data produced by Defendants in this litigation responsive to Plaintiffs' Requests for Production; Defendants' responses and documents appended to responses to Plaintiffs' Interrogatories and Requests for Admission; the CARRP Administrative Record produced by Defendants; documents referenced by Defendants in their initial and supplemental disclosures; the Class Lists produced by Defendants; documents regarding named Plaintiffs' immigration benefit applications; documents related to CARRP obtained in response to Freedom of Information Act requests made by the American Civil Liberties Union, available at <https://www.aclusocal.org/en/CARRP>; a report titled "Muslims Need Not Apply: How USCIS Secretly Mandates the Discriminatory Delay and Denial of Citizenship and Immigration Benefits to Aspiring Americans" prepared by the American Civil

1 Liberties Union of Southern California and available at: <https://www.aclusocal.org/en/CARRP>;
 2 publicly available documents and statistics accessed on websites for USCIS, Department of
 3 Homeland Security, and Department of State; and documents identified by Defendants' in their
 4 Initial and First and Second Supplemental Initial Disclosures.

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 6 **INTERROGATORY NO. 3:**

7 Please identify, as required by Fed. R. Civ. P. 26(a)(2), all persons whom Plaintiffs may
 8 use at trial to present evidence under Fed. R. Evid. 702, 703 or 705; each person's field(s) of
 9 expertise; the opinions he or she is expected to offer; each fact which said expert relies upon to
 10 support the opinions identified above; the title and full citation of any treaties, books, articles,
 11 essays, tests, reports, tables, or other writings, published or unpublished, reviewed or consulted
 12 in preparing to render each opinion identified; a description of each analysis, report, data, test
 13 result, or other document the expert reviewed in preparing to render the opinion to be testified to;
 14 an identification and description of any methodology developed or used by the expert in forming
 15 each opinion; and designate the methodologies that support each opinion of each such expert.

16 **RESPONSE TO INTERROGATORY NO. 3:**

17 Plaintiffs object to this Interrogatory to the extent it seeks information about expert
 18 witnesses earlier than pursuant to the Court's scheduling order, and because discovery and
 19 investigation into this matter are ongoing. Defendants have not fully complied with their own
 20 discovery obligations and have not produced relevant documents or information in response to
 21 Plaintiffs' discovery requests, and as a result, Plaintiffs cannot fully respond to this Interrogatory
 22 at this time. Additionally, Plaintiffs' ability to identify fact witnesses is hampered by the existing
 23 protective order constraining Plaintiffs' use of class member information. This issue remains
 24 under discussion by the parties. Plaintiffs also object to this Interrogatory to the extent it seeks
 25 information beyond the categories of information required under Fed. R. Civ. P. 26(a)(2) about
 26 an expert witness's anticipated testimony.

1 **FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

2 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
3 Interrogatory No. 3. Responding further, Plaintiffs expressly reserve the right to supplement,
4 clarify, revise, or correct their response to this Interrogatory and to assert additional objections or
5 privileges in one or more subsequent supplemental response(s) in accordance with the time
6 period for exchanging expert reports set by the Court.
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1 DATED: August 30, 2019

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 30, 2019, I caused service of the foregoing document via email to all counsel of record herein.

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16 DATED this 30th day of August, 2019, at Seattle, Washington.

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